

MT LEGISLATIVE HISTORY

Chapter 273 19 74

Bill H _____ S 503

Original bill & hist. ___C

H. Committee on Hwy's + Transp.

S. Committee on Hwy's + Transp.

Hearing Date(s) _____ C

Hearing Date(s) _____ C

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____

Report _____

TESTIMONY ON SENATE BILL 503

Mr. Chairman, and members of the committee, my name is William L. Romine, and I represent the Montana Motorcycle Dealers' Association. We support the passage of SB 503 in its present form.

This bill, as originally introduced, did not distinguish between the violation of the requirement of wearing headgear while riding a motorcycle, and the violation of the muffler section of the motorcycle statutes. The Senate Committee amended the bill, segregating the two violations.

It was felt by the committee in the Senate that the violation of the helmet requirement should contain a minimum penalty for several reasons. First of all, the helmet statute is the only statute in the Highway Code that protects the violator from himself, rather than protecting the public from the violator. Secondly, it was felt that the \$10.00 fine for the first offense with a subsequent offense within one year calling for a fine of \$10.00 to \$25.00 would be reasonable, because it would be cheaper for the violator to buy a helmet than to pay the fine.

As to the violation of the muffler statute, the Motorcycle Dealers' Association supported the penalties provided for in this bill. These penalties are more severe, and in fact are the same penalties which are provided for the violation of automobile muffler statutes. The Association recognizes that the public is fed up with loud motorcycles, and that the motorcycle's image is greatly hurt by loud motorcycles. It is hoped that the penalties provided for in SB 503 will go a long way towards stopping loud motorcycles on the streets of our cities.

The Motorcycle Dealers' Association urges that the committee report favorably on SB 503.

March 2

The meeting of the Highway and Transportation Committee was called to order by Chairman Laas. The following Representatives were absent: Campbell, Harper, Rolfe, and Walborn. Senate Bill 503: Mr. Bill Romine was present to explain this bill in the absence of Senator Drake. His testimony is attached. Jerry Loendorf representing the Montana Medical Association stated that his association supported this bill. This bill would provide a penalty for those operating a motorcycle or riding on a motorcycle without protective headgear. Also this bill would require the motorcycle to be equipped with noise suppression devices. Representative Lien felt that this bill was slightly severe. He felt the 10 dollar penalty should be amended to a lesser amount. Representative Staigmiller made a motion that Senate Bill 503 be concurred in. Representative Watt seconded the motion. Representative Lien made a substitute motion that Senate Bill 503 be not concurred in. Representative Seistad seconded the motion. Representative Aageson made a motion that Senate Bill 503 be amended on page 2, section 1, subsection (3), line 5 be deleting after the word "fined" all of the remaining material in subsection (3) and inserting in lieu thereof the following: "five dollars (\$5)." Representative Lien seconded the motion and the motion failed by a vote of 7 to 4. The motion of Representative Staigmiller that Senate Bill 503 be concurred in was passed by a vote of 7 to 4. Senate Bill 506: This bill sponsored by Senator Drake is a bill to require signs to be placed in areas where radar is used in traffic control. Senator Drake discussed the bill with the members of the committee. Representative Baeth made a motion that Senate Bill 506 be concurred in. Representative Watt seconded the motion and the bill passed with 10 in favor and 1 against. Senate Bill 473: This bill was heard at an earlier date and is the recodification of the highway department. Representative Seistad made a motion that Senate Bill 473 be amended according to the amendments attached. The motion passed unanimously. Representative Healy made a motion that Senate Bill 473 be concurred in as amended. Representative Staigmiller seconded the motion and it passed unanimously.

There being no further business the meeting was adjourned.

Walter Laas
Walter Laas, Chairman

Highways & Transportation Committee

43rd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
SB 692	Provide for civilian drivers' license examiners.	Feb. 8	Feb. 16			Held in Committee	Killed in House
SB 698	Allocate state construction funds to match federal aid funds.	Feb. 8	Feb. 28		Feb. 28	Be Concurred In	Signed by Governor
SB 367	Dept of Highways to be custodian of motor vehicles used in the service of the state of Montana.	Jan. 25	Feb. 19		Mar. 5	As Amended Be Concurred In	
SB 473	Codification of the Department of Highways	Mar. 11	Feb. 28		Mar. 2	As Amended Be Concurred In	
SB 503	Providing a penalty clause for not wearing protective headgear	Jan. 28	Mar. 2		Mar. 2	Be Concurred In	
SB 506	Providing that signs indicating radar is used be posted	Feb. 1	Mar. 2		Mar. 2	Be Concurred In	Signed by Governor

SECOND HALF -43rd LEGISLATIVE SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 243	1-9-74	1-17-74							
		2-7-74	2-7-74		2-7-74				
SB 367	1-9-74	1-10-74							
		1-15-74	1-15-74			1-15-74			
		1-17-74							
SB 466	1-9-74	1-24-74	1-24-74	1-24-74					
SB 479	1-16-74	1-26-74							
		1-31-74	1-31-74	AS AMENDED REFER TO RULES COMMITTEE					
SB 498	1-8-74	1-22-74	1-22-74		1-22-74				
SB 503	1-9-74	1-19-74							
		1-22-74	1-22-74			1-22-74			
SB 506	1-9-74	1-19-74							
		1-22-74	1-22-74		1-22-74				
REREFERRED	1-23-74	1-26-74	1-26-74			1-26-74			
SB 526	1-10-74	1-19-74	1-19-74	1-19-74					
SB 546	1-11-74	1-19-74	1-19-74	1-19-74					
SB 562	1-14-74	1-19-74	1-19-74	1-19-74					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

January 19, 1974

The fourth meeting of the Highways and Transportation Committee was called to order by Chairman Manning on the above date in Room 404 of the State Capitol Building at 9:00 a.m.

ROLL CALL: All members were present, with the exception of Senator Hazelbaker, who was excused.

CONSIDERATION OF SB 503: Providing a penalty for Motor-cycle Headgear Law.

Senator Drake, author of the bill, said the purpose of this bill was to include a penalty for the bill passed last session requiring persons to wear headgear while riding motor-cycles. He believes the penalty, as stated in this bill, was higher than need be, and recommended a reduction of the fine.

Capt. Tooley, Montana Highway Patrol, said the position of the Patrol was that although a penalty was needed for this law, the penalty was somewhat severe in this bill. He said they would have no objection to an amendment.

William Romine, representing the Montana Motorcycle Dealers Association, stated that they agree also the penalty section referring to imprisonment should be stricken. He said this law is unique in that it is the only law on the books that protects the violator from himself. He also believes the fine is too high. He said there may be some Justice of the Peace or Judge who has "a thing" about motorcyclists, and may impose the heavy penalty provided for in the bill. He referred to the auto muffler bill and the penalty clause therein, and suggested that this penalty be more in line. He presented some amendments for the Committee's consideration, and stated they do not oppose the bill with these amendments. (amendments attached)

Senator Zody suggested that SB 503 be held until Tuesday at the next meeting. He said he would talk to Senator Drake and Mr. Romine about the suggested amendments.

CONSIDERATION OF SB 506: Removing the Requirement of Radar Use Signs.

Senator Drake, author of the bill, explained that at the present time if a municipality wants to make an arrest for speed when it occurs during the use of radar, there must be a sign on the highway stating that radar is being used in the area. As a result, many times arrests are thrown out of court.

Helena

FROM: DO YOU REPRESENT? Montana Motorcycle Dealers' AssociationSUPPORT? ☐OPPOSE? ☐AMEND? ☒PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1. S.B. 503 should be amended, striking everything after the figures "(5500)". There is no logical reason for imprisoning someone for up to 6 months merely because he fails to wear his helmet. In fact, D.W.I. only calls for a 6 months imprisonment, and reckless driving only calls for 90 days. These offenses are far more serious than not wearing a helmet.
2. Assuming the imprisonment provision is stricken, the fines provision should also be amended. Instead of a \$500.00 maximum fine, the limits should be \$10.00 for the first offense, and a \$10.00 to \$25.00 fine for subsequent offenses, for not wearing a helmet. We must remember that this particular law is unique in the highway code. It appears to be the only law designed solely to protect an individual from himself. All other highway laws are designed to protect persons other than the violator of the law. The penalties should, therefore, be much lower. Reckless driving, which is clearly a danger to others, has a maximum fine of only \$300.00.
3. We submit that the same fines which are applied for violation of the automobile muffler statutes (32-21-146 and 32-21-157), should be applied to motorcycles. Automobile muffler violation calls for a fine of \$10.00 to \$100.00 for first violation, \$25.00 to \$200.00 for a second violation within one year, and \$50.00 to \$500.00 for a third violation within one year.

are a problem. There is really only six months out of the year when riding a bike to work is possible.

After further discussion, Senator Moritz moved that SB 498 DO NOT PASS. Senator Graham seconded the motion. Motion carried unanimously.

CONSIDERATION OF SB 503: Providing a penalty for Motorcycle Headgear Law.

Senator Zody reported that he and Bill Romine, Montana Motorcycle Association, had prepared the amendments to the bill. These amendments were passed out to the committee and further explained by Mr. Romine (herewith attached).

After further discussion, Senator Zody moved that we amend page 1, Section 1, subsection (3), line 22 of the original bill by striking subsection (3) in its entirety and inserting in lieu thereof the new subsections (3) and (4). (Copy of amendments attached).

Senator Graham seconded the motion. Motion carried unanimously.

CONSIDERATION OF SB 506: Removing the Requirement of Radar Use Signs.

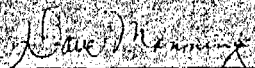
Senator Sorenson said that the fact the sign is up should strengthen the case. The purpose of the sign is to forewarn the people that radar check could be operating in the vicinity, and this is a deterrent to speeders.

Senator Northey made a motion that SB 506 DO PASS.

Senator Zody made a substitute motion that SB 506 DO NOT PASS. Senator Graham seconded the motion. Motion carried, with all Senators voting yes, with the exception of Senator Northey, voting no.

ADJOURN

With no further business, the meeting was adjourned at 10:30 a.m.


DAVE MANNING, CHAIRMAN

AMENDMENT TO SENATE BILL 503

Strike all of Section (3) of the Bill and substitute in place thereof the following:

"(3) A person convicted of the violation of subsection (1), above, shall be fined ten dollars (\$10) for the first offense, and not less than ten dollars (\$10) nor more than twenty-five dollars (\$25) for any subsequent offense or offenses committed within one (1) year after the first conviction."

"(4) A person convicted of the violation of subsection (2), above, shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or by imprisonment for not more than ten (10) days or by both such fine and imprisonment for the first such conviction; for a second conviction within one (1) year thereafter such person shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) or by imprisonment for not more than twenty (20) days or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction such person shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or by imprisonment for not more than six (6) months or by both such fine and imprisonment."

compensation benefits shall not exceed the state's average weekly wage. Total permanent disability benefits shall be paid for the duration of the worker's total permanent disability.

In cases where it is determined that periodic benefits granted by the Social Security Act, 42 U.S.C. 301 (1935), are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero (0), by an amount equal, as nearly as practical, to one-half (½) the federal periodic benefits for such week.

Section 2. Section 92-704.1, R.C.M. 1947, is amended to read as follows:

"92-704.1. **Compensation for injury causing death.** Weekly compensation benefits for injury causing death shall be sixty-six and two-thirds percent (66 ⅔%) of the decedent's wages. The maximum weekly compensation benefits shall not exceed the state's average weekly wage. The minimum weekly compensation for death shall be fifty percent (50%) of the state's average weekly wage, but in no event shall it exceed the decedent's actual wages at the time of his death.

Death benefits shall be paid to a widow or widower for life or until remarriage, and in the event of remarriage two (2) years' benefits shall be paid in a lump sum to the widow or widower. In all cases, benefits shall be paid to beneficiaries as defined in this act."

Approved March 22, 1974

CHAPTER NO. 273

AN ACT TO AMEND SECTION 32-21-105.1, R.C.M. 1947, PROVIDING A PENALTY CLAUSE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-21-105.1, R.C.M. 1947, is amended to read as follows:

"32-21-105.1. **Headgear required for motorcycle riders—noise suppression devices.** (1) The operator and passenger, if any, of any motorcycle operated upon the streets or highways of this state shall wear protective headgear upon the head. Such headgear shall meet standards established by the department of justice.

(2) All motorcycles operated on the streets and highways of this state shall be equipped at all times with noise suppression devices, including an exhaust muffler, in good working order, and in constant operation.

(3) *A person convicted of the violation of subsection (1), above, shall be fined five dollars (\$5).*

(4) *A person convicted of the violation of subsection (2), above, shall*

be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or by imprisonment for not more than ten (10) days or by both such fine and imprisonment for the first such conviction; for a second conviction within one (1) year thereafter such person shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) or by imprisonment for not more than twenty (20) days or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction such person shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or by imprisonment for not more than six (6) months or by both such fine and imprisonment."

Approved March 25, 1974

CHAPTER NO. 274

AN ACT DEFINING SHOPLIFTING AS THEFT; AMENDING SECTIONS 95-611 AND 11-1602, R.C.M. 1947, EXPANDING A CITIZEN'S RIGHT TO DETAIN AND ARREST OFFENDERS AND LIMITING CIVIL ACTIONS BASED ON SUCH DETENTIONS AND ARRESTS.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 95-611.1, R.C.M. 1947, which reads as follows:

95-611.1. **Definitions.** As used in this act:

(1) "Concealment" means any act or deception done purposely or knowingly upon or outside the premises of a wholesale or retail store or other mercantile establishment with the intent to deprive the merchant of all or part of the value of the merchandise. The following acts or deceptive conduct shall be prima facie evidence of concealment: concealing merchandise upon the person, or in a container, or otherwise removing such merchandise from full view while upon the premises; or removing, changing, or altering any price tag; or transferring or moving any merchandise upon the premises to obtain a lower price than the merchandise was offered for sale by the merchant; or abandoning or disposing of any merchandise in such a manner that the merchant will be deprived of all or part of the value of the merchandise.

(2) "Shoplifting" means the theft of any goods offered for sale by a wholesale or retail store or other mercantile establishment.

Section 2. There is a new section to be numbered 95-611.2, R.C.M. 1947, which reads as follows:

95-611.2. **Concealment not proof of theft.** Concealment of merchandise shall not constitute proof of the commission of the offense of theft.

Section 3. Section 95-611, R.C.M. 1947, is amended to read as follows: